IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

W.A.Nos.1719, 1720, 1722 & 1731 OF 2004.

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WRIT APPEAL NO : 1719 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20/09/2004 in WPMP.NO. 2764 OF 2004 & WVMP.NO.772 OF 2004 IN WP NO : 2104 OF 2004 on the file of the High Court.)

Between:

1 Government of Andhra Pradesh, Rep. by its Principal Secretary,
Revenue Department, Secretariat, Hyderabad.
2 The District Collector, West Godavari District, Eluru.
3 The Mandal Revenue Officer, Tadepalligudem, West Godavari District.

..... APPELLANTS

AND

1 Nichanakolla Laxmana Rao, S/o. Subbarayulu,
R/o. Kondrupoluv Village, Tadepalligudem, West Godavari District.
2 Kondeti Venkata Laxmi Rajeswari, S/o. Nagaraju,

R/o. Kondrupoluv Village, Tadepalligudem, West Godavari District.

3 Nichanakolla Gangarathnam, W/o. Ramakrishna Rao,
R/o. Kondrupoluv Village, Tadepalligudem, West Godavari District.

4 Nichanakolla Nagabhushanam, S/o. Lakshmana Rao,
R/o. Tadepalligudem Village & Mandal, West Godavari District.

5 Panthamn Sesha Rao, S/o. Subba Rao,
R/o. Tadepalligudem Village & Mandal, West Godavari District.

6 Marlpudi Subba Rao, S/o. Nagayya,
R/o. Tadepalligudem Village & Mandal, West Godavari District.

7 Cheeli Samelu, S/o. Yakob,
R/o. Tadepalligudem Village & Mandal, West Godavari District.

8 Kotum Venkatesu, S/o. Naganna,
R/o. Tadepalligudem Village & Mandal, West Godavari District.

9 Vuppalapati Veerraghavulu, S/o. Venkanna @ Mutyalu,
R/o. Tadepalligudem Village & Mandal, West Godavari District.

10 Vemula Venkata Rao, S/o. Ganganna,
R/o. Tadepalligudem Village & Mandal, West Godavari District.

11 Ganta Simhachalam, S/o. Ramanna,
R/o. Tadepalligudem Village & Mandal, West Godavari District.

12 Kondeti Nagaraju, S/o. Satyanarayana,
R/o. Tadepalligudem Village & Mandal, West Godavari District.

13 Nichanakolla Veeravenkata Subba Rao, S/o. Ramakrishna Rao,
R/o. Tadepalligudem Village & Mandal, West Godavari District.

.....RESPONDENTS

Counsel for the Appellants : ADVOCATE GENERAL

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

WRIT APPEAL NO : 1720 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20/09/2004 in WPMP.NO.1584 OF 2004 & WVMP.NO.875 OF 2004 IN WP NO : 1213 OF 2004 on the file of the High Court.)

Between:

1 Government of Andhra Pradesh, rep by Principal Secretary, Revenue Department
Secretariat, Hyderabad
2 The District Collector, West Godavari Distrct, Elurur
3 The Mandal Revenue Officer, Tadepalligudem, West Godavari District

..... APPELLANTS

AND

1 M.K. Viswanatham S/o Nageswara Rao
R/o Kadakatla, Tadepalligudem Town, West Godavari District
2 Karri Sitaramaiah S/o Someswara Rao
R/o Kadakatla, Tadepalligudem Town, West Godavari District
3 Jutta Satyanarayana S/o Subba Rao
R/o Kadakatla, Tadepalligudem Town, West Godavari District
4 Mokkarala Narasimha Rao S/o Atchaiah
R/o Kadakatla, Tadepalligudem Town, West Godavari District
5 Thaninki Subba Rao S/o Venkataramaiah
R/o Kadakatla, Tadepalligudem Town, West Godavari District
6 Tanikonda Narasimha Rao S/o Rathaiah
R/o Kadakatla, Tadepalligudem Town, West Godavari District
7 Pasumarthi Kondal Rao S/o Narasimha Murthy
R/o Kadakatla, Tadepalligudem Town, West Godavari District
8 Yerra Nageswara Rao S/o Bulli Venkanna
R/o Kadakatla, Tadepalligudem Town, West Godavari District
9 Korlepara Panduranga Rao S/o Venkateswarlu
R/o Kadakatla, Tadepalligudem Town, West Godavari District
10 Ganesh Krishna Murthy S/o Ganga Raju
R/o Kadakatla, Tadepalligudem Town, West Godavari District
11 Dundamogula Somaraju S/o Suranna
R/o Kadakatla, Tadepalligudem Town, West Godavari District.

12 Dungeti Sriramamurthy S/o Venkataratnam

R/o Kadakatla, Tadepalligudem Town West Godavari District

.....RESPONDENTS

Counsel for the Appellants : ADVOCATE GENERAL

Counsel for the Respondents : MR.C.V.NAGARJUNA REDDY

WRIT APPEAL NO : 1722 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20/09/2004 in WPMP.NO.2429 OF 2004 AND WVMP.NO.775 OF 2004 IN WP NO : 1862 OF 2004 on the file of the High Court.)

Between:

1 Government of Andhra Pradesh, rep., by its Prl.Secretary,
Revenue Department, Secretariat, Hyderabad.
2 The District Collector, W.G.District, Eluru.
3 The Mandal Revenue Officer, Tadepalligudem, W.G.District.

..... APPELLANTS

AND

1 Satti Venkata Jaganmohan Reddy, s/o Bhami Reddy, r/o 24th Ward, Tadepalligudem, W.G.District.
2 Satti Gopalakrishna Reddy, s/o Bhami Reddy, r/o 24th Ward, Tadepalligudem, W.G.District.
3 Satti Samba Siva Reddy, s/o Bhami Reddy, r/o 24th Ward, Tadepalligudem, W.G.District.
4 Satti Sesha Reddy, s/o Venkanna, r/o 24th Ward, Tadepalligudem, W.G.District.
5 Satti Rami Reddy, s/o Venkanna, r/o 24th Ward, Tadepalligudem, W.G.District.
6 Satti Muneeswara Reddy, s/o Venkanna, r/o 25th Ward, Tadepalligudem, W.G.District.
7 Medpati Palla Reddy, s/o Dani Reddy, r/o Pentapadu, Tadepalligudem, W.G.District.
8 Medapati Arendra Reddy, s/o Dani Reddy, r/o Pentapadu, Tadepalligudem, W.G.District.
9 Medpati Venkatarathnam, w/o Dani Reddy, r/o Pentapadu, Tadepalligudem, W.G.District.
10 Pasala Somasekhar, s/o Rayudu,

r/o Pentapadu, Tadepalligudem, W.G.District.
11 Bandi Aditya Prasad, s/o Ramakrishna,
r/o Pentapadu, Tadepalligudem, W.G.District.
12 Pasala Tulasi Satya Sai, s/o Suryachandra Rao,
r/o Railway Station Road, Tadepalligudem,
W.G.District.
13 Pasala Siddartha, s/o Suryachandra Rao,
r/o Railway Station Road, Tadepalligudem,
W.G.District.
14 Adapa Narasimha Murthy, s/o Surayya,
r/o 10th Ward, Tadepalligudem, W.G.District.
15 Pyboina Tulasamma, w/o Hanumantha Rao,
r/o 10th Ward, Tadepalligudem, W.G.District.
16 Pyboina Raghu, s/o Hanumantha Rao,
r/o 10th Ward, Tadepalligudem, W.G.District.
17 Pyboina Venkata Ramesh Babu, s/o Hanumantha Rao,
r/o 10th Ward, Tadepalligudem, West Godavari
District.
18 Pyboina Anji Prasad, s/o Appa Rao,
r/o K.N.Road, Tadepalligudem, West Godavari District.
19 Manepalli Srinivasa Rao, s/o Hanumantha Rao,
r/o K.N.Road, Tadepalligudem, West Godavari District.
20 Medapati Somi Reddy, s/o Chella Reddy,
r/o Pentapadu, Tadepalligudem, West Godavari
District.
21 Medapati Srinivasa Reddy, s/o Somi Reddy,
r/o Pentapadu, Tadepalligudem, West Godavari
District.
22 Medapati Chella Reddy, s/o Subbi Reddy,
r/o 14th Ward, Tadepalligudem, West Godavari
District.
23 Medapati Satyanarayana Reddy, s/o Subbi Reddy,
r/o 14th Ward, Tadepalligudem, W.G.District.
24 Kovvuri Surreddy, s/o Narsi Reddy,
r/o Pentapadu, Tadepalligudem, W.G.District.
25 Kovvuri Subbi Reddy, s/o Narsi Reddy,
r/o K.N.Reddy, Tadepalligudem, W.G.District.
26 Kovvuri Narendra Reddy, s/o Venkata Reddy,
r/o K.N.Road, Pentapadu, Tadepalligudem,
W.G.District.
27 Karri Appi Reddy, s/o Satyanarayana Reddy,
r/o 14th Ward, Tadepalligudem, W.G.District.
28 Satti Madhu Reddy, s/o Muneeswara Reddy,
r/o 25th Ward, Tadepalligudem, W.G.District.
29 Satti Srinivasa Reddy, s/o Muneeswara Reddy,
r/o 25th Ward, Tadepalligudem, W.G.District.
30 Mallidi China Venkata Satyanarayana Reddy, L.R. of
S.Poli Reddy,
r/o K.N.Road, Pentapadu, Tadepalligudem,
W.G.District.
31 Mallidi Dani Reddy, s/o M.Ch.V.Satyanarayana Reddy,
r/o K.N.Road, Pentapadu, Tadepalligudem,
W.G.District.

32 Mallidi Rama Surreddy, s/o M.Ch.V.Satyanarayana Reddy,
r/o K.N.Road, Tadepalligudem, W.G.District.
33 Gudimetla Srinivasa Gopala Reddy, s/o Jaldi Reddy,
r/o Pentapadu, Tadepalligudem, W.G.District.
34 Gudimetla Paddi Reddy, s/o Jaldi Reddy,
r/o Pentapadu, Tadepalligudem, W.G.District.
35 Velagala Jaldi Reddy, s/o Paddi Reddy,
r/o Pentapadu, Tadepalligudem, W.G.District.
36 Eli Umamaheswara Rao, s/o Sitaramayya,
r/o 28th Ward, Tadepalligudem, W.G.District.
37 Eli Subrahmanyeswara Rao, s/o Sitaramayya,
r/o 28th Ward, Tadepalligudem, W.G.District.
38 Satti Venkateswara Reddy, s/o Rami Reddy,
r/o 24th Ward, Tadepalligudem, W.G.Dist.,
39 Kovvuri Venkata Reddy, s/o Narsi Reddy,
r/o K.N.Road, Pentapadu, Tadepalligudem, W.G.District.
40 Maddukuri Venkateswara Rao, s/o Bapiraju,
r/o 1st Ward, Tadepalligudem, W.G.District.
41 Korasika Satyavathi, w/o Narasayya,
r/o 1st Ward, Tadepalligudem, W.G.District.
42 Shaik Kajan Babavali, s/o Sk.Hussain,
r/o 1st Ward, Tadepalligudem, W.G.District.
43 Shaik Mastan, s/o Sk.Hussain,
r/o 14th Ward, Tadepalligudem, W.G.District.
44 Satti Surya Kumari, w/o Venkata Jaganmohan Reddy,
r/o 24th Ward, Tadepalligudem, W.G.District.
45 Satti Sandhya Rani, w/o Gopala Krishna Reddy,
r/o 24th Ward, Tadepalligudem W.G.District.
46 Karri Venkata Reddy, s/o Appareddy,
Metta L.Agraharam, Tadepalligudem, W.G.District.
47 Karri Srinivasa Reddy, s/o Venkata Reddy,
Metta L.Agraharam, Tadepalligudem, W.G.District.
48 Karri Vijayabhaskar Reddy, s/o Venkata Reddy,
Metta L.Agraharam, Tadepalligudem, W.G.District.
49 Uppuluri Sesha Kumari, s/o Subbanna,
10th Ward, Tadepalligudem, W.G.District.
50 Uppuluri Raghu, s/o Satyam,
10th Ward, Tadepalligudem, W.G.District.
51 Uppuluri Anasuya, w/o Satyam,
10th Ward, Tadepalligudem, W.G.District.
52 Vadagana Nageswara Rao, s/o Venkanna,
L.Agraharam, Tadepalligudem, W.G.District.
53 Peneti Trimurthulu, s/o Venkanna,
L.Agraharam, Tadepalligudem, W.G.District.
54 Peneti Venkata Rao, s/o Sattiyya,
L.Agraharam, Tadepalligudem, W.G.District.
55 Peneti Ramadasu, s/o Sattiyya,
L.Agraharam, Tadepalligudem, W.G.Dist.,
56 Darapureddy Venkata Ratnam, s/o Venkanna,
L.Agraharam, Tadepalligudem, W.G.District.
57 Ulisi Venkata Rao, s/o Setaramayya,

L.Agraharam, Tadepalligudem, W.G.District.
58 Inkula Nageswara Rao, s/o Subba Rao,
K.N.Road, Tadepalligudem, W.G.District.

.....RESPONDENTS

Counsel for the Appellants : ADVOCATE GENERAL

Counsel for the Respondents : MR.P.VINAYAKA SWAMY

WRIT APPEAL NO : 1731 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20/09/2004 in WPMP.NO.1787 OF 2004 & WVMP.NO. 873 OF 2004 IN WP NO : 1375 OF 2004 on the file of the High Court.)

Between:

1 Government of Andhra Pradesh, rep. by its Prl. Secretary,
Revenue Department, Secretariat, Hyderabad.
2 The District Collector, W.G. District, Eluru.
3 The Mandal Revenue Officer, Tadepalligudem, W.G. District.

..... APPELLANTS

AND

1 A. Abraham, S/o Samuel,
2 M. Yohanu, S/o M. Santhosham,
3 Smt. Mangamma, S/o R. Jagam,
4 N. Kondaiah, S/o Narasimhulu,
5 Smt. Kampurathnam, w/o Late P. Laxmayya,
6 M. Sujanamma, W/o Musalayya,
7 Smt. Nagamani, W/o G. Subba Rao,
8 S. Venkat Rao, S/o S. John,
9 Smt. Ariamma, W/o K. Satyam,
10 Smt. Mangamma, w/o D. Yosubu,
11 V.K. Satyanarayanam, S/o Venkatarathnam,
12 K. Venkateswara Rao, S/o Narasaiah,
13 Ch. Pallaiah, s/o John,
14 Smt. Suryakantham, W/o S. Jogiraju,
15 N. Gangaraju, S/o Geratayya,
16 S. Bulivenkata Reddy, s/o Venkat Reddy,
17 S.M.M.Reddy, s/o S.B.V. Reddy,
18 M. David, S/o Sunder Rao,

19 Y. Lezor, s/o Late Gabriel,
20 P. Musalyya, s/o Kasayya,
21 D. Narayana Murthy, s/o Narasayya,
22 N. Bhaskar Rao, s/o Prabhudas,
23 P. Ratnam, W/o Venkanna,
24 Y. Shyambabu, S/o Suranna,
25 Y. Shyambabu, s/o Suranna,
26 G. Satyam, S/o Chinnapullaiah,
27 Smt. Ch. Venkayanmma, w/o Ch. S. Ramanjaneyulu,
28 Smt. K. Satyavathi, W/o K.B.K. Murthy,
29 Smt. Jnanakumari, s/o Suguna Rao,
30 Smt. Siromani, w/o J.J.S.P. Benerji Rao,
31 D. Satyanarayana, S/o Narasanna,
32 Devakaruna, s/o Y.B. Sundara Rao,
33 Ch. Eswara Rao, s/o Ch.S.N. Murthy,
34 Smt. V. Sone, W/o Somulu,
(All are residing at Ex-Servicemen ,10th Ward,
Aerodrome Colony, Tadepalligudem,
West Godavari District).

.....RESPONDENTS

Counsel for the Appellants : ADVOCATE GENERAL

Counsel for the Respondents : MR.C.V.NAGARJUNA REDDY

The Court made the following Common Judgment:

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1 . By the orders impugned in the writ appeals, learned single Judged proceeded to make the interim orders absolute and accordingly dismissed vacate applications, and also reserved liberty to the learned counsel to move the Court for expeditious disposal of the writ petitions.

2 . Writ petitions have been filed by the petitioners, who are respondents in these appeals, seeking direction against the respondents to declare their inaction to commence and complete the process of alienation of the lands to them which were earlier acquired for construction of Aerodrome during II World War as illegal and are seeking direction to the respondents to alienate the lands to them after fixing fair market value as has been fit and appropriate in the circumstances of the case.

3. The learned single Judge without going into the question as to the prima facie nature of the claim of the writ petitioners as to their entitlement to continue in occupation of the lands proceeded to make the interim orders absolute by observing that during the pendency of the writ petitions, if the writ petitioners are dispossessed, it would certainly cause prejudice.

4. We have heard counsel for the parties. The undisputed facts are that about Ac.653.41 cents of land in four villages of Tadepalligudem Taluk was requisitioned for construction of Aerodrome during II World War, on 25.05.1943. The lands were later acquired under the provisions of Defence of India Act and Rules framed thereunder, on 03.01.1944 and thus possession was taken over by Government of India, Ministry of defence. After the end of II World War, the lands were not required for Aerodrome and remained barren. There were encroachments made thereupon. Some of the encroachments are by the very persons who owned and possessed the land prior to requisition and acquisition and some of the encroachments are made by third persons.

Some of them are those who were granted leases. Military Estates Officer, A.P. Circle, Secunderabad, in exercise of the powers under Public Premises (Eviction of Unauthorised Occupants) Act, passed orders for eviction of encroachers. W.P.No.5171 of 1975 and batch were filed against the orders of eviction which were dismissed on 24.3.1977. Even the appeals filed before the Appellate Authority under Public Premises (Eviction of Unauthorised Occupants) Act were dismissed by the District Judge. Even the CRPs filed against the orders of Appellate Authority were dismissed by the High Court and W.A.No.229 of 1977 and batch were also dismissed by Division Bench of the High Court, which had been filed against the order dated 24.03.1977 dismissing the writ petitions. It appears that while dismissing the writ appeals, observations were made by the Division Bench that if the authorities would like to sell or dispose of the lands, preference deserves to be given to the writ petitioners. It appears that there have been some negotiations between the Government of India, Ministry of Defence, and State Government regarding transfer of the lands to the State Government for consideration of Rs.4,03,69,091=00. The State Government appears to have made advance payment of Rs.1,00,000,00=00 to the Central Government. It also appears that the entire package of making the land to the State Government was subject to the condition that State Government will have to consider the claim of those who have been in occupation of the land in view of various judgments of the Courts in case Government would like to sell and transfer the lands. Formal possession of the land to State Government appears to have been delivered by the Army authorities through Mandal Revenue Officer, Tadepalligudem, in the year 1987.

5. In the year 1996 encroachers appears to have filed writ petition challenging inaction on the part of the Government in not selling the land. The said W.P.No.16411 of 1988 was dismissed on 23.09.1996 since the Government wanted the land for public purpose.

6. In the year 2004 fresh writ petitions were filed complaining inaction on the part of the State Government in not alienating the land and sought direction to

the Government to alienate the land to them. Along with the writ petitions, interim applications were filed seeking direction to the respondents not to interfere with their possession and enjoyment of the lands during the pendency of the writ petitions, in which order of status quo was passed as regard possession of the property. Vacate applications were filed and the same were dismissed. These appeals are preferred against the said order.

7 . At the very outset, two questions, which would be kept separate and distinct, will arise, namely, question of remaining in possession and the question of entitlement of being assigned or transfer of the lands. Insofar as the question whether or not petitioners are entitled to seek direction for assignment or transfer of the land in their favour, the same has to be decided in the writ petitions. Such directions are sought only on the observations of earlier Division Bench judgment in W.A.Nos.229 of 1977 and batch that in case the authorities would like to sell the land, they should give preference to the petitioners, and in the subsequent W.P.No.16411 of 1988, stand of the Government was that it would like to utilise the land for public purpose. On that score also, there is any prima facie case or not was also required to be examined, which was not examined by the learned single Judge. As regards entitlement to remain in possession, there is absolutely neither any equity nor prima facie case in favour of the petitioners. The writ petitioners have no right to be in occupation of the land. They have no title over the property nor symbolize any title. There is no question of suffering any irreparable loss or injury by them, and balance of convenience is not in their favour. Thus, learned single Judge was not justified in making the interim orders absolute. None of the factors were taken note of by the learned single Judge as regards petitioners' entitlement, balance of convenience or irreparable loss. Only in the event of Government taking a decision for transferring the land, the claim of petitioners will have to be considered on preferential basis. But, they cannot be allowed to urge or say that till decision is taken, their possession be not disturbed. As such it was a fit case in which interim order ought to have been vacated and applications for interim relief ought to have been dismissed. Accordingly writ appeals are allowed. Orders impugned in the writ appeals are aside. Applications for interim relief filed by the petitioners are

dismissed. Vacate applications are allowed. No costs.

DEVINDER GUPTA. C.J.,

C.V. RAMULU. J.,

Dated: 09.11.2004.

VRK.

To

1 The Principal Secretary to Govt.,
Revenue Department, Secretariat, Hyderabad.
2 The District Collector, West Godavari District, Eluru.
3 The Mandal Revenue Officer, Tadepalligudem, West Godavari District.

4. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.V. RAMULU.

W.A.NOS.1719, 1720, 1722 & 1731 OF 2004.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 09.11.2004.